



POLICE DEPARTMENT

-----X
In the Matter of the Disciplinary Proceedings :

- against - :

FINAL

Police Officer Terrence Rooney :

ORDER

Tax Registry No. 929080 :

OF

Bronx Court Section :

DISMISSAL
-----X

Police Officer Terrence Rooney, Tax Registry No. 929080, having been served with written notice, has been tried on written Charges and Specifications numbered 2020-22445, 2021-23895, & 2021-23062, as set forth on form P.D. 468-121, dated August 17, 2020, August 26, 2021 (amended on May 18, 2022), and September 14, 2021 (amended October 26, 2022) respectively, and after a review of the entire record, Respondent is found Not Guilty of Specification 2 and Guilty of Specifications 1 and 3 in Case No. 2021-23895 and Guilty of all charges in Case Nos. 2020-22445 & 2021-23062.

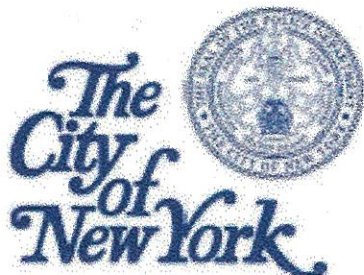
Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Terrence Rooney from the Police Service of the City of New York.

EDWARD A. CABAN
POLICE COMMISSIONER

EFFECTIVE: 8-2-23

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POLICE DEPARTMENT

January 13, 2023

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In the Matter of the Charges and Specifications	:	Case Nos.
- against -	:	2020-22445
Police Officer Terrence Rooney	:	2021-23895
Tax Registry No. 929080	:	2021-23062
Bronx Court Section	:	

-----X

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Rosemarie Maldonado
Deputy Commissioner Trials

APPEARANCES:

For the Department: Anna Krutaya & Megan Forbes, Esq.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent: Michael F. Dailey, Esq.
One Riverdale Avenue, Suite One
Bronx, NY 10466

To:

HONORABLE KEECHANT L. SEWELL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

Disciplinary Case No. 2020-22445

1. Police Officer Terrence Rooney, while assigned to the 109th Precinct, on or about and between March 10, 2020 and March 11, 2020, while off-duty, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer wrongfully caused annoyance or alarm to his ex-girlfriend.

P.G. 203-10, Page 1, Paragraph 5

PROHIBITED CONDUCT

2. Police Officer Terrence Rooney, while assigned to the 109th Precinct, on or about March 8, 2020, wrongfully conducted a Department computer database inquiry for personal reasons unrelated to Department business.

P.G. 219-14

DEPT. COMPUTER SYSTEMS

Disciplinary Case No. 2021-23895

1. Police Officer Terrence Rooney, while assigned to the Bronx Court Section, on or about and between August 1, 2021 and August 4, 2021, while off-duty, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer engaged in a verbal and physical altercation with an individual known to the Department, causing an injury. *(As amended)*

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

2. Police Officer Terrence Rooney, while assigned to the Bronx Court Section, on or about June 28, 2021, while off-duty, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer engaged in a physical altercation with an individual known to the Department, causing an injury. *(As added)*

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

3. Police Officer Terrence Rooney, while assigned to the Bronx Court Section, on or about and between February 23, 2021 and November 20, 2021, made fifteen (15) inquiries in the DAS LITE database for reasons unrelated to the official business of the Department. *(As added)*

P.G. 219-14, Page 1, Paragraph 2

DEPT. COMPUTER SYSTEMS

Disciplinary Case No. 2021-23062

1. Police Officer Terrence Rooney, while off-duty and assigned to the 109th Precinct, on or about December 19, 2020, wrongfully was discourteous to or used offensive language toward or in the presence of a civilian.

P.G. 203-10, Page 1, Paragraph 5

PROHIBITED CONDUCT

2. Police Officer Terrence Rooney, while assigned to the 109th Precinct, on or about December 19, 2020, after having taken police action, been injured taking police action, or used force, failed to make required entries in his Activity Log.

P.G. 212-08, Page 1, Paragraph 1
P.G. 221-03, Page 4, Paragraph 5

ACTIVITY LOG
REPORTING/INVESTIGATION
OF FORCE INCIDENT/INJURY
DURING POLICE ACTION

3. Police Officer Terrence Rooney, while assigned to the 109th Precinct, on or about January 12, 2021, wrongfully caused inaccurate entries in Department or Port Authority Police Department records about the facts relating to an arrest.

P.G. 203-05, Page 1, Paragraph 4
P.G. 203-10, Page 1, Paragraph 5

PERFORMANCE ON DUTY
PROHIBITED CONDUCT

4. Police Officer Terrence Rooney, while assigned to the 109th Precinct, on or about January 12, 2021, wrongfully used unnecessary force against Ms. [REDACTED].

P.G. 221-01
P.G. 221-02
P.G. 203-10, Page 1, Paragraph 5

FORCE GUIDELINES
USE OF FORCE
PROHIBITED CONDUCT

5. Police Officer Terrence Rooney, while assigned to the 109th Precinct, on or about December 19, 2020, wrongfully failed or neglected to prepare entries in a Threat, Resistance Or Injury (T.R.I.) Interaction Report.

P.G. 221-03, Page 5, Paragraph 11

REPORTING/INVESTIGATION
OF FORCE INCIDENT/INJURY
DURING POLICE ACTION
MEMBERS OF SERVICE
SUBJECTED TO FORCE

P.G. 221-06, Page 1, Paragraph 5

6. Police Officer Terrence Rooney, while assigned to the 109th Precinct, on or about December 19, 2020, wrongfully failed to notify a Patrol Supervisor, any other Department supervisor, or the Paid Detail Unit about a use of force, an arrest, or an injury to himself.

P.G. 221-03, Page 4, Paragraph 3

REPORTING/INVESTIGATION
OF FORCE INCIDENT/INJURY
DURING POLICE ACTION
MEMBERS OF SERVICE
SUBJECTED TO FORCE
PAID DETAIL GUIDELINES

P.G. 221-06, Page 1, Paragraph 3

Paid Detail Guidelines, Page 2

7. Police Officer Terrence Rooney, while assigned to the 109th Precinct, on or about and between January 1, 2020 and January 13, 2021, on twenty-three (23) occasions, wrongfully worked Paid Details within three (3) hours of a regularly scheduled tour. (*As amended*)

P.G. 205-40, Page 6
General Prohibitions, Paragraph (c)(5)

OFF-DUTY EMPLOYMENT
PERSONNEL MATTERS

8. Police Officer Terrence Rooney, while assigned to the 109th Precinct, on or about January 12, 2021, wrongfully caused the arrest of an individual known to the Department for Assault in the Third Degree when said individual had not committed said crime.

P.G. 208-01, Page 1, Paragraph 3
P.G. 203-10, Page 1, Paragraph 5

LAW OF ARREST
PROHIBITED CONDUCT

9. Police Officer Terrence Rooney, while off-duty and assigned to the 109th Precinct, on or about January 12, 2021 wrongfully was discourteous to or used offensive language toward or in the presence of a civilian.

P.G. 203-10, Page 1, Paragraph 5

PROHIBITED CONDUCT

10. Police Officer Rooney, while assigned to the 109th Precinct, on or about January 12, 2021, after having taken police action, been injured taking police action, or used force, failed to make required entries in his Activity Log.

P.G. 212-08, Page 1, Paragraph 1
P.G. 221-03, Page 4, Paragraph 5

ACTIVITY LOG
REPORTING/INVESTIGATION
OF FORCE INCIDENT/INJURY
DURING POLICE ACTION

11. Police Officer Rooney while assigned to the 109th Precinct, on or about January 12, 2021, wrongfully failed or neglected to prepare entries in a Threat, Resistance Or Injury (T.R.I.) Interaction Report.

P.G. 221-03, Page 5, Paragraph 11

REPORTING/INVESTIGATION
OF FORCE INCIDENT/INJURY
DURING POLICE ACTION
MEMBERS OF SERVICE
SUBJECTED TO FORCE

P.G. 221-06, Page 1, Paragraph 5

12. Police Officer Rooney, while assigned to 109th Precinct, on or about January 12, 2021, wrongfully failed to notify a Patrol Supervisor, any other Department supervisor, or the

Paid Detail Unit about a use of force, an arrest, or an injury to himself.

P.G. 221-03, Page 4, Paragraph 3

REPORTING/INVESTIGATION
OF FORCE INCIDENT/INJURY
DURING POLICE ACTION
MEMBERS OF SERVICE
SUBJECTED TO FORCE
PAID DETAIL GUIDELINES

P.G. 221-06, Page 1, Paragraph 3

Paid Detail Guidelines, Page 2

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on October 27 and October 28, 2022. Respondent, through his counsel, entered a plea of Not Guilty to Specification 1 in Disciplinary Case No. 2020-22445, Specifications 1 and 2 in Disciplinary Case No. 2021-23895, and Specifications 3, 8, 11, and 12 in Disciplinary Case No. 2021-23062. Respondent, through his counsel, entered a plea of Guilty to the remaining specifications for mitigation. The Department Advocate called Sergeants Leo Ma, Daniel Martinucci, Christopher Reilly, and Kevin Paulsingh, Police Officer Juan DeJesus and Port Authority Police Officer Isiah Williams as witnesses. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all of the evidence in this matter, the tribunal finds as follows:

Disciplinary Case No. 2020-22445

Specification 1: (Conduct Prejudicial/Caused Annoyance)
Specification 2 (Computer Misuse)

Guilty
Pled Guilty

Disciplinary Case No. 2021-23895

Specification 1: (Domestic Altercation- Aug. 2021)
Specification 2: (Domestic Altercation- June 2021)
Specification 3: (Computer Misuse)

Guilty
Not Guilty
Pled Guilty

Disciplinary Case No. 2021-23062

<i>Specification 1 and 9: (Discourtesy to Civilian)</i>	Pled Guilty
<i>Specifications 2 and 10: (Activity Log)</i>	Pled Guilty
<i>Specification 3: (Inaccurate Entries in Arrest Records)</i>	Guilty
<i>Specification 4: (Unnecessary Force)</i>	Pled Guilty
<i>Specification 5 & 11: (Failed to Prepare T.R.I. Report)</i>	Pled Guilty- 12/19/20
	Guilty- 1/12/21
<i>Specification 6 & 12: (Failed to Make Required Notifications)</i>	Pled Guilty- 12/19/20
	Guilty- 1/12/21
<i>Specification 7: (Paid Details Close to Tour)</i>	Pled Guilty
<i>Specification 8: (Caused Arrest-No Crime Committed)</i>	Guilty

I further recommend, based on the totality of the voluminous misconduct, that Respondent be Dismissed from the Department.

ANALYSIS

Respondent was served with charges concerning three distinct matters which were adjudicated together in this proceeding. The first case that will be discussed involves Respondent's conduct while working two paid details at the Duane Reade store located in the Port Authority bus terminal. The charged misconduct includes discourtesy, use of force and documentation and notification failings. The second and third cases involve allegations of assault and harassment against a female complainant with whom Respondent was romantically involved for several years. Each case will be analyzed in a separate section of this decision. The penalty recommendation will encompass the totality of the misconduct for which there is a finding or plea of guilty.

Disciplinary Case No. 2021-23062: Duane Reade Incidents**1. Paid Detail Incident 1: December 19, 2020**

Respondent pled guilty to all four specifications related to this December 19, 2020, encounter with a male civilian at Duane Reade:

- Discourtesy and offensive language toward a civilian (Specification 1)
- Failing to make Activity Log entries (Specification 2)

- Failing to prepare a T.R.I. report about the incident, as required (Specification 5)
- Failing to make required notifications about the incident (Specification 6)

The civilian involved in this case was not identified; therefore, there is no named complainant in this case. Respondent's body-worn camera recorded his interaction with a male in a black sweatshirt with a hood over his head. The male is also wearing a surgical mask, but it is on his chin, exposing both his mouth and nose. The body-worn camera first captures the male as he flips his middle finger at Respondent. Respondent reacts by stating, "Now you're on camera dick." (Dept. Ex. 12 at 1:01-1:03) When Respondent orders him to leave the store, the male becomes argumentative. Respondent removes his asp, but does not use it, as he asks, "What's it gonna be pal?" Respondent directs the male to leave the store again, but he is non-compliant. Respondent pushes the male four times until he is outside of the store: twice on the chest while the male is still facing him; once on the back after the male turns around; and, once on the shoulder when the male turns back toward Respondent. (Dept. Ex. 12 at 1:04-1:27)

Respondent tells the male to "[g]et the fuck out of here" and they engage in a verbal back and forth in the doorway of the store for about a minute. It is apparent the male is antagonizing Respondent, as he calls him a "redneck," "faggot," tells him his "breath stinks" and repeatedly challenges Respondent to "go outside." (*Id.* at 1:46-2:01, 2:14) In addition to constantly instructing the male to leave the store, Respondent makes several discourteous and profane comments including, "Fuck you, get out of here, fuck you asshole;" "Fuck you dick, go suck a cock then. Go suck a cock then if that's what you want;" "Yeah, your fucking breath stinks, go suck a dick somewhere" and "fucking idiot" (*Id.* at 1:40-1:49, 2:01-2:06, 2:14-2:22; 2:26) Port Authority police ultimately approach and assist in removing the male from the store.

At trial, Respondent explained that Duane Reade had previously barred this male from the premises for shoplifting and that he had entered the store without authorization. (Tr. 251)

Respondent acknowledged using the offensive language depicted on the video as he removed the male from the store. He further conceded that he did not obtain required pedigree information, make any activity log entries, complete a required Threat, Resistance or Injury Interaction (T.R.I.) Report or make any notification about the incident because he considered the matter “over” when the male left the premises and did not return. (Tr. 255-56)

In accordance with Respondent’s plea, he is Guilty of Specifications 1, 2, 5, and 6.

2. **Paid Detail Incident 2: January 12, 2021**

a. *Respondent pled guilty to the following specifications in connection with the January 12, 2021 Duane Reade incident:*

- *Unnecessary force against a female (Specification 4)*
- *Discourtesy and offensive language (Specification 9)*
- *Failing to make required Activity Log entries (Specification 10)*

It is uncontested that Respondent was again performing a paid detail at Duane Reade when he engaged with a female over her non-compliance with the store’s mask policy. A verbal and physical dispute ensued. The female was ultimately arrested for assaulting Respondent; however, the arrest was not processed after officers from Midtown South reviewed Respondent’s body-worn camera and had concerns about whether the video aligned with the details in the arrest paperwork; an IAB investigation was thereafter commenced. (Tr. 58, 257-58; Dept. Ex. 6)

Respondent’s body-worn camera captured his interaction with the female. She is wearing a black hat, a black sweatshirt with her hood over her head, and a blue face mask; she is carrying a Sprite soda bottle. (Dept. Ex. 6 at 00:30) When the audio commences, Respondent and the female are heard arguing about him “still looking” at her after she had complied with his directive to wear a mask. Respondent tells the female to leave the store and pushes her approximately eight times, using both hands. At all times during this encounter inside the store, the two are face-to face. She repeatedly implores, “Don’t put your hands on me, why are you

pushing me.” Each time he pushes, her arms appear to rise reflexively. Although it appears that she may have made some physical contact with Respondent, it is difficult to discern the specific type or duration of that contact. Respondent says, “Who the hell do you think you are,” and “You just hit me three times,” as he continues to push her. The bottle falls to the ground as they approach the store exit. (Dept. Ex. 6 at 1:00-1:26)

As they move through the main area of store in this manner, the female repeatedly asks him to take his hands off her and emphatically states, “I will leave on my own.” Respondent does not give her the opportunity to do so. He retorts, “You’re leaving now,” and persists in pushing and physically maneuvering her to the exit. As the female stands just beyond the store entrance yelling about her treatment by Respondent, he pushes her again. They continue arguing verbally for another 40 seconds and she walks away. (Dept. Ex. 6 at 1:27-2:38)

Within ten seconds, the female returns requesting the return of her hat that she states fell off during this incident; her surgical mask is now situated below her chin. Respondent turns around and tells her to leave as he pushes her beyond the exit, asserting, “I can push you out of the store.” When she is again outside, Respondent shoves her once more, angrily yelling “leave the store.” The female gets in Respondent’s face, yelling “Protect and serve, protect and serve nigger,” prompting Respondent to push her approximately three times, causing his body-worn camera to fall to the ground. Respondent then reports to the Port Authority police that she hit him three times. The female is arrested. When she asks why, another officer tells her “disorderly conduct and ... assault on a police officer.” She continues to protest how she was treated. (Dept Ex. 6 at 2:38-4:36)

At trial, Respondent testified that the encounter started when Duane Reade staff informed him that the female was consuming a beverage on the premises, which was against store policy.

He stated that as he was trying to push her out of the store, she “smacked” him three times with the soda bottle on his hands and arms, causing a cut to his right hand below the knuckle. At trial, Respondent acknowledged that she did not touch him until he began to push her. He further conceded that he should have deescalated the situation and allowed her to leave the store on her own. Respondent explained that he failed to do so because he was injured and got “caught up in the heat of the moment and emotions were running high.” He added, “I was under a lot of stress with working, and trying to manage my finances and my children’s welfare.” (Tr. 265)

Respondent acknowledged on direct examination that he did not make any required entries about this encounter in his Activity Log. (Tr. 259, 261, 263-65, 268, 313)

Accordingly, and consistent with his plea, Respondent is Guilty of the misconduct set forth in Specifications 4, 9 and 10.

b. Respondent pled not guilty to the following charges:

- *Specification 3: Caused Inaccurate Entries in Arrest Records*
- *Specification 8: Caused Arrest of Individual Who Had Not Committed Crime*

Upon close examination of the record, this tribunal finds that the Department proved by a preponderance of the evidence that Respondent wrongfully caused inaccurate entries in official records about facts related to the subject female’s arrest, and further established that he wrongfully caused her arrest for assault in the third degree.

Administrative Guide 304-10 defines an inaccurate statement as a statement that a member of the service knows, or should know, includes incorrect material information. The Port Authority arrest paperwork states that Respondent “informed” the arresting officer that the subject female “with intent to cause injury did shove him multiple times which caused him to receive a small cut to his hand... while he was working a paid detail at Duane Reade.” (Dept. Ex.

11) On balance, I find this statement to be incomplete, inaccurate and inconsistent with what is depicted on the real-time video of this encounter.

As noted above, the body-worn camera footage depicts Respondent pushing the female repeatedly to get her to leave the store. Although the female may have made some physical contact with Respondent, I do not find that she, as stated in the arrest paperwork, shoved Respondent with intent to cause injury nor do I find anything on the video corroborating Respondent's testimony that "she hit me three times with the soda bottle." (Tr. 266) More importantly, at no point does the video depict the female making a striking motion or using the bottle as a weapon against Respondent. Any contact that she makes appears to be reflexive and reactionary to the force Respondent was using; her arms going up are a natural physical response to his pushes. Further, at no point does he ever stop pushing or give her a brief opportunity to leave the store, even when she emphatically states "I will leave on my own." Given Respondent's arbitrary use of force against her, it is wholly unsurprising that there could have been some incidental and reactive movements resulting in physical contact with his hands as he pushed her over and over again. His narrative that the female shoved him with intent to cause injury, however, was self-serving and materially different than what the video documents. Accordingly, I find Respondent Guilty of causing inaccurate entries in the arrest records.

Having found that Respondent's statements were not accurate, I further find that he did cause the female's unlawful arrest as alleged in Specification 8. As stated above, there was no indicia of intentionality in the video, and any physical contact the female had with Respondent likely resulted from her reflexive reaction to being pushed aggressively and without police necessity by Respondent through a Duane Reade store. In short, the inaccurate representations

he made caused the female's arrest for a crime she did not commit. Accordingly, he is Guilty of the misconduct set forth in Specification 8.

c. Respondent pled not guilty to the following charge:

- *Specification 11: Untimely Completion of T.R.I. Report*

The Department contends that Respondent's submission of the required T.R.I. Report was untimely and that it omitted the pertinent information that he used force against the female. It is undisputed that the report was submitted the day after the incident and that the field for "Force Used by MOS" is marked N/A. (Dept Ex. 10)

P.G. 221-06 clearly states that the T.R.I. Report must be completed "prior [to] the completion of tour, unless exceptional circumstances exist." The incident took place at 2125 hours on Tuesday, January 12, 2021; Respondent ended his paid detail tour at 2200 hours. (Dept. Ex. 9) The Report is dated 0430 hours, Wednesday, January 13, 2021. No exceptional circumstances were set forth in the record which could explain the delay in submission. The report was therefore submitted late in violation of Department policy.

More troubling is that Respondent indicated in the late report that no force was used by checking the not applicable, "N/A," box. As discussed above, Respondent used excessive force by pushing and shoving the subject female numerous times during the course of this encounter. The record provides no reasonable or credible explanation for the force field to be marked "N/A." Based on the untimeliness, and the omitted key details about force used in the report, Respondent is found Guilty of Specification 11.

d. Respondent pled not guilty to the following charge:

- *Specification 12: Failure to Make Required Notifications*

It is not disputed that Respondent failed to notify a Patrol Supervisor, any other Department Supervisor, or the Paid Detail Unit about this incident which involved the use of

force. Patrol Guide 221-06 requires MOS to request the response of an immediate supervisor to the scene of any incident where an MOS is subject to force while on-duty. Respondent did not request a supervisor to the scene, and admitted that he did not notify a patrol supervisor from Midtown South. Respondent testified on cross-examination that he had “forgotten” that he was required to do this until he was read the section during his Department Interview with Sergeant Ma. (Tr. 322) Based on his admission and the clear rule outlined in the Patrol Guide, Respondent is found Guilty of Specification 12.

e. Respondent pled guilty to the following charge:

- *Specification 7: Twenty-three Paid Detail Violations*

Respondent has pleaded guilty to working a paid detail within three hours of his regularly scheduled tour on twenty-three occasions from January 1, 2020 to January 13, 2021. Respondent testified that he knew it was improper to do this, but alleged that he needed to supplement his income to meet his child support obligations, as well as pay for his own expenses and those of his girlfriend and her two children who were all living with him. (Tr. 243-45, 249-50)

This bright-line rule exists to ensure that officers are sufficiently refreshed and able to perform competently and handle potentially stressful circumstances during their regular tours and the details. In accordance with his plea, Respondent is Guilty of Specification 7.

Domestic Incidents

1. Background

Much of the context and details of a relationship and its particular complexities will naturally be brought out in a case such as this. Ultimately, however, as the analysis of each instance of alleged misconduct will make clear, most of these extraneous particulars are not

dispositive of whether Respondent committed the charged misconduct. The following information is provided as background.

Respondent met Complainant when they began corresponding on an internet forum in early 2015. They met in person for the first time in February 2015 and continued a sporadic intimate relationship until March 2020. According to Respondent, Complainant became involved with an auxiliary police officer in early 2020 and was living with him by March of that year. Respondent testified at trial that during this period he wanted to get back into her “good graces,” and claimed that “she had said she did not want to be” with the auxiliary officer. (Tr. 231-33)

Complainant filed a DIR against him on March 11, 2020, but according to Respondent, she moved in with him later that month. By July, however, Complainant and her children had moved out. On July 13, 2020, the Department interviewed Respondent about the March DIR and ordered him not to have further contact with Complainant. (Dept. Ex. 3; Tr. 236, 240)

Respondent testified that in August 2020, it was Complainant who reached out to him after learning that his daughter had been in a car accident. About a month later, she asked him to pick her up from the auxiliary cop’s apartment. Respondent and Complainant subsequently moved in together. Complainant had a baby in January 2021. The police responded to a domestic violence complaint at their home on August 25, 2021. (Tr. 214-43, 276, 283-84)

2. Disciplinary Case No. 2020-22445: Unwanted Communications Causing Annoyance and Alarm and Computer Misuse - March 2020

As noted above, in March 2020 Respondent was hoping to reconcile with Complainant even though he knew that she was “in a relationship” and living with an auxiliary police officer. (Tr. 232-33) At trial, Respondent admitted that on March 8, 2020, he made an unauthorized

computer check related to Complainant, as alleged in Specification 2. Respondent claimed that he conducted this unauthorized search to determine whether Complainant had a felony arrest because he did not want her moving in with him if she had outstanding warrants. In addition, Respondent sought to reassure Complainant that she could end her relationship with the auxiliary police officer without being threatened with possible police action. (Tr. 237)

Two days later, after finishing his paid detail late in the evening on March 10, 2020, Respondent proceeded to Complainant's home to discuss their "future." He admitted that this was the first time he had surprised her at the residence she shared with the auxiliary police officer. He entered the apartment building without Complainant's consent and wrote the following message on a hallway wall near her door: "Hi []! I was here. TR." He then texted Complainant asking whether she had seen his written message. (Dept. Exs. 1, 2). Respondent also forwarded photos of her apartment door and elevator and told Complainant he "left [her] a note" and that he "figured [she] would not want to see or talk to [him]." (Dept. Ex 1; Dept. Ex. 2, p. 2, 3) Complainant messaged that she could not find the note. Respondent replied, "It's inscribed on the wall. Are you locked inside? It's not an actual piece of paper," and then asked her to look out the window because he was standing outside by "a red car." He followed-up with two subsequent messages, inquiring if he was on the "wrong side" and then saying he had moved into the courtyard. (Dept. Ex. 2, p. 7) Complainant replied, "Why are you doing this," and Respondent answered "I wanted to talk to you and not have you think that I was a gutless turd. I will leave if you want me to go." (*Id.* at 6) He then wrote that he came by bike "so that meant that I wasn't going to ask you to leave. I will go but why did you tell him?" Respondent added in yet another message, "I came packing heat too...for the thugs up here." He then apologized for not being "more forthcoming" and claimed that he was let into the building by an old man on

the 5th floor. In his final message, Respondent told Complainant that he was headed home on the train and to “feel better.” (*Id.*) The screenshots in evidence show no response from Complainant.

The following day, Complainant filed and signed a Domestic Incident Report (hereinafter “DIR”) at the precinct that included the following statement:

Terrence Rooney texted me via messenger, sent me pictures of my door, elevator as well as the door to the stairs, told me to look outside my window told me he left a note inscribed in the wall. He also had his gun saying that he brought it because he wasn’t afraid of the thugs in the Bronx. I asked him why he was doing this and he said something along the lines because he wants me back. All the messages have been deleted but I have screenshots.

Two critical questions were checked “yes” in the DIR: whether “[the] suspect made victim fearful” and whether “suspect was violently and constantly jealous of [victim].” (Dept. Ex. 3; Tr. 53-55, 87-88) It is uncontested that Complainant subsequently moved in with Respondent. (Tr. 236)

Sergeant Ma interviewed Respondent about the DIR on July 13, 2020. Respondent admitted that he went to Complainant’s apartment and wrote a message on an interior wall of the apartment building. (Tr. 57) At trial, Respondent characterized the messages as a “romantic gesture to persuade her to come with me.” Although he speculated that his presence might be welcome, he acknowledged that this might not be the case given that Complainant was living with another man at that location. He claimed that the “packing heat” comment was made to let her know she would be “protected” with him as opposed to being with an auxiliary who had “no way to protect her.” He believed Complainant was “into police culture,” implying she would understand his reference. (Tr. 233-35, 301-05)

Complainant made only brief references to this incident during an August 25, 2021, conversation with police officers. The body-worn camera footage captured officers asking whether she previously reported any incidents with Respondent. Complainant explained that she

was “living in the Bronx, [when] he came over there. They made a report against him. He wrote on my wall, the apartment building wall.” (Dept. Ex 16 at 29:57-30:09) Later in that conversation, she explained that she had to “come back here [to the apartment she resided with Respondent],” because when she was living in the Bronx, “he wrote all over my wall.” She detailed she wasn’t on the lease at that NYCHA apartment and the “person she was staying with complained.” Complainant specifically recounted that she had gone to the precinct and showed PO Martin the text messages about “packing heat.” She further opined to Sergeant Martinucci, “I feel like every time I leave, he always finds me.” (Dept. Ex. 16 at 57:18-58:05)

Respondent is charged with engaging in conduct prejudicial to the good order, efficiency or discipline of the Department, in that he “caused annoyance or alarm to his ex-girlfriend.” The specification references “annoyance” and “alarm,” which are terms used in the Penal Law definition of Harassment in the Second Degree. The language of the specification does not expressly charge harassment, nor does it exactly mirror the Penal Law crime. Those types of cases typically involve a continuing course of unwanted communications. New York Law does not expressly define “annoyance” or “alarm.”

Looking to the plain meaning of the terms, Merriam-Webster’s dictionary defines alarm as “a sudden sharp apprehension and fear resulting from the perception of imminent danger.” Black’s Law Dictionary defines annoyance as “discomfort, vexation. Not generally synonymous with anguish...or harassment.”

Having carefully reviewed all of the messages, the DIR, Respondent’s testimony and the limited statements by Complainant, I find Respondent guilty of the charged misconduct. By his own testimony, Respondent knowingly went, unannounced, to the residence Complainant shared with another man. He did not call Complainant and ask to be let inside to speak with her.

Instead, he entered the building without her permission, oddly defaced a wall by writing a message, and then sent Complainant a lengthy string of texts indicating that he had been in her building and was still in the vicinity. In those messages, he admitted, “I figured you would not want to see or talk to me,” but he continued to send additional messages even as her responses were terse and tepid at best. Within this context, and given the presence of a romantic rival, his assertion that he was “packing heat” was especially problematic. Evidence that this caused “discomfort” and “alarm” is that Complainant included this detail in the DIR and repeated her concerns over a year later when she was again interviewed by the police about a second domestic incident.

The tribunal found unpersuasive Respondent’s defense that this was merely a grand romantic gesture that worked because Complainant subsequently moved in with him. The Advocate is correct that there is no requirement that Complainant remain in a state of fearfulness for a prolonged period for his actions to be deemed misconduct. Accordingly, the tribunal finds that Respondent’s strange actions and comments, including a worrying reference to his firearm, caused Complainant annoyance and alarm. Behaving in this manner was contrary to the good order and discipline that the Department expects of its members, even when off-duty. Accordingly, he is Guilty of Specifications 1 and 2.

3. *Disciplinary Case No. 2021-23895: Physical Altercations- June and August 2021 & Computer Misuse*

This second domestic case involving the parties came to the Department’s attention when a friend of Complainant, Officer DeJesus, reached out to her via text message on August 25, 2021. At this point, Respondent and Complainant were residing together. Complainant texted DeJesus that “[she] might get beat. [She] might die tonight.” (Tr. 118) Officer DeJesus testified at trial that he became alarmed and attempted to get additional information. After about an hour,

Complainant provided Respondent's name but no further details as to why she believed she was in grave danger. DeJesus called Internal Affairs to anonymously report what he had learned because he found Complainant's statements to be concerning. (Tr. 119-20, 126-27)

Soon thereafter, Officer Duran, of IAB phoned Complainant at home and explained that the Department had received information that her life was in danger. Complainant replied "Yeah. Another officer. Yeah." Duran explained that she would be sending a captain right over. Complainant sounded surprised and nervous stating, "I don't know why...I'm with the officer right now...I wasn't ready to talk to you guys. I'm sorry." When Duran again said she would send someone over, Complainant asked if they could do so during Respondent's tour. Duran suggested she "sneak out" to the store because she did not want to risk losing time if Complainant's life was in danger. Complainant then informed her, "He follows me. He said...if you guys get involved that I'm dead." She then offered, "He's not home at the moment but he could be coming home any moment." Duran ended the call but told her that someone would follow-up shortly. (Dept. Ex. 15, 15A; Tr. 181)

That afternoon, Sergeant Martinucci arrived at Respondent's apartment, where Complainant was home with her daughter and infant son. Respondent arrived soon thereafter and was asked to step outside. Complainant spoke with Sergeant Martinucci and with responding supervisors at length. She seemed unprepared for the police and stated multiple times she had no idea her friend would call IAB. Martinucci testified that she "initially did not speak. She seemed very reluctant...fearful. She was often times looking over her shoulder...to see if anybody was there or listening." (Tr. 135-36)

On the body-worn camera recording of the interview, Complainant is at first reticent to provide details but explains that three weeks ago, on August 1, 2021,¹ she and Respondent argued about her attending a friend's out-of-state funeral. Complainant told the sergeant that Respondent would "not allow" her to attend. She had been laying on the couch as she discussed this with Respondent. At one point she got up to walk away because she wanted to end the conversation. She told the sergeant that as she rose, Respondent "grabbed [her leg] really hard," squeezing with his fingers and causing bruises.² Martinucci confirmed at trial that he observed bruising on her right calf – which was weeks after the alleged incident. When he asked if he had hit her before, she responds, "Not recently," and then provided details about a 2017 incident where he locked her inside an apartment with no means of exit and went to work. (Dept. Ex. 16 at 30:30-32:06; 34:47-36:00, 1:07:00-1:09:10; Tr. 136-40)

When the Duty Captain arrived, Complainant recaps that her friend contacted IAB about Respondent's "abuse." She repeats the details of how Respondent grabbed her leg and illustrates by gesturing with her fingers. She also shows them photos of her injuries that she says were taken on August 2, 2021³ and offers to send them. She inquires about what is to happen with his job status and offers that he had told her he is always getting screwed and bullied at work. (Dept. Ex. 16 at 1:08:44-1:09:12)

At approximately the one hour and forty-one minute mark on the recording, Complainant for the first time recounts a June 28, 2021, domestic incident where Respondent repeatedly

¹ Sergeant Paulsingh investigated this incident and, during the course of eight interviews with Complainant, which are not in evidence, the incident date was changed from August 1 to August 4 when it was determined Respondent was out-of-state on August 1. (Tr. 177-78, 182-83) Paulsingh explained that those interviews were not recorded due to the sensitive nature of some of the allegations. He confirmed that at no point did she recant allegations or indicate she did not wish to proceed. (Tr. 179-80)

² Martinucci also took five photos of her calf during the course of the interview. (Tr. 137; Dept. Ex 16 at 31:\$5-32:06)

³ She then shows the photos to the sergeant on the scene. Sergeant Martinucci did not ascertain the date the photo was taken. (Tr. 146, 148, 183)

“slammed her against the wall” when she went upstairs to get away from him. Martinucci states to Complainant, this is “the first you’re mentioning that.”

As the interview unfolds, Complainant responds affirmatively to Martinucci’s questions about whether Respondent has threatened to kill her, strangled or choked her, and beaten her while pregnant. She then questions whether pushing constitutes “beating.” When asked if Respondent is violently and constantly jealous, she says he is “jealous of everyone” and then asserts the violence has become worse in the past six months. (Dept. Ex. 16 at 1:24:30-1:25:58) During the interview, Complainant states that the baby is Respondent’s child though she provides a last name for him that is different than hers or Respondent’s.

Complainant completed a DIR where she preliminarily detailed that she had been in a relationship with Respondent for six years during which she had been “threatened, thrown out and abused.” The DIR specifically indicated that on June 28, she found out a friend passed away but Respondent was upset and wanted her to “clean the dishes.” Complainant alleged that when she walked out of the apartment and onto the roof, Respondent followed her and “kept slamming” her against the wall, not allowing her to walk away until her daughter came upstairs with the baby. Complainant further alleged in the DIR that on August 1, she was speaking with Respondent about going to the funeral out-of-state, and Respondent “grabbed a hold of [her] right leg” because she told him she “didn’t want to talk anymore.” (Dept. Ex. 19)

████████████████████. He testified that he was forced to move out of his apartment by the Duty Captain, who gave the keys to Complainant. Respondent’s counsel indicated that an order of protection was issued. Complainant remained at the apartment with the children; Respondent stayed at Airbnbs until he eventually moved into another apartment. (Tr. 293-94, 354)

Respondent testified that there is no truth to the allegations of physical violence and that their relationship was “fine” that summer. He further noted that he was in Chicago visiting his mother on August 1, 2021, the date Complainant alleged this incident occurred, until he returned in the early morning hours of August 4th. (Tr. 281-86)

a. Specification 1: August 2021 Physical Altercation

The tribunal finds that there is sufficient evidence to support a finding that Respondent injured Complainant in August 2021. In a case such as this, where two individuals provide starkly different versions of the same events, credibility determinations are particularly challenging for the finder-of-fact. The determination is made more complex when the parties have previously been involved in a romantic or intimate relationship. Under these circumstances, a finder-of-fact must be mindful of the varying motivations of the participants and the effect that motivation may have upon witness credibility.

This case is made all the more difficult by the fact that Complainant did not testify before the tribunal. That hearsay is admissible in this tribunal does not mean that it must be accorded any weight if it is unreliable. (*See Dep’t of Environmental Protection v. Cortese*, OATH Index No. 1613/06 [Sept. 12, 2006] [“Although hearsay statements are admissible in an administrative proceeding and in certain circumstances may constitute the sole basis for an agency determination, hearsay statements must be scrutinized carefully in order to determine if they are ‘so substantially reliable and probative that a reasonable inference of the existence of a fact may be culled therefrom.’”] Indeed, “the more central the hearsay is to the agency’s case, the more serious the question of basic fairness and the more critical the question of reliability may become” (*Fire Dept. v. Ehrlich*, OATH Index No. 1850/12 [May 21, 2013], quoting *Calhoun v. Bailar*, 626 F.2d 145,149-50 [9th Cir 1980]) Here, there is little doubt as to the centrality of the

hearsay evidence to the Department's case as it constitutes the principal evidence of guilt upon which the Department relies.

Despite the multi-layered aspects of the accounts and arguments presented by both the Department and the Respondent, the tribunal must apply traditional credibility factors such as logic, consistency, corroboration, bias and interest in assessing Complainant's statement and Respondent's testimony, and must ultimately determine whose version of events, when taking all relevant factors into account, has the ring of truth and should be deemed credible.

After thorough review of the record, and careful consideration of all arguments made by the parties, this tribunal believes Complainant's hearsay account that in early August 2021 Respondent purposely injured her during a domestic incident. It is this tribunal's assessment that the body-worn camera footage documenting Complainant as she made her claims provided convincing evidence of her truthfulness. On the whole, this tribunal cannot ignore that the Complainant presents very clear indicia of someone who has experienced domestic violence. She appears nervous, almost skittish, at the outset, avoiding eye contact, looking toward the front door, and only answering Sergeant Martinucci's question with terse, to-the-point responses. As time passes, the sergeant is able to elicit more details, a phenomenon that is entirely consistent with domestic violence victims. What is clear is that Complainant has not prepared a fabricated account aimed at inflicting negative consequences on Respondent. On the contrary, Complainant seems taken aback that the officers are at her home and reluctant at the outset to have a conversation with them. At times, Complainant even makes excuses for Respondent and appears concerned about potential consequences for him. For example, she voluntarily admits to the sergeant that she was unfaithful to Respondent. Moreover, the photos in evidence, both those taken by Martinucci on the date of the interview and those provided by the Complainant from

closer in time to the violence, corroborate her account that Respondent injured her calf. (Dept. Exs. 17, 18)

Conversely, though it is not Respondent's burden to disprove the charge, he offers little more than a blanket denial of any physical violence and an assessment that the relationship was "fine." Further, his counsel's unsupported characterization of this Complainant as a "nefarious person" who was acting in a calculated manner to force Respondent from their shared residence simply lacks the ring of truth and finds no credible support in the evidence presented at trial.⁴

In sum, this tribunal is ultimately not at all persuaded that this Complainant concocted this narrative and set in motion a chain of events to [REDACTED] as a means to her desired end of removing Respondent from a residence she had shared with him for almost a year. It simply does not align with her demeanor or with her statements. Furthermore, I do not find her lack of precision on the date of the incident to be fatal to the specification—it is a matter of a few days and the event was not reported for several weeks.⁵ Ultimately, as the finder of fact in this matter, I believe Complainant's version of events regarding the August 2021 argument and physical altercation. Accordingly, Respondent is found Guilty the misconduct set for the in Specification 1.

⁴ Respondent's counsel argued that the investigations into these domestic violence incidents were biased and incompetently conducted. The tribunal finds no credible evidence in the record to support these claims. For example, Counsel focused on two standard DIR questions that were checked "yes" in the March 2020 report: "Did suspect make the victim fearful?" and "Is suspect violently and constantly jealous of you?" It is standard practice for an officer to fill out the majority of the DIR before handing the form to the victim for the narrative portion. In order to fill out the DIR accurately, the officer asks the victim the questions presented on it. As Sergeant Ma testified, to his knowledge, the DIR was completed pursuant to procedure and he had no reason to believe otherwise. (See Tr. 85-93, 99-100, 340, 363-64) Moreover, the tribunal found no persuasive support for Respondent's claim that Sergeants Martinucci and Paulsingh acted improperly or with bias against Respondent. After careful review, I found no trace of bias in their testimony and found them to be straightforward and forthright witnesses. (Tr. 140-41, 148-51, 155-56, 176-79, 182-86, 208-09, 213-14)

⁵ The Department correctly noted that Respondent is charged with "conduct prejudicial" and the Department need not prove the elements of the crime with which he was charged in family court nor prove the date beyond a reasonable doubt. (Tr. 383-84)

b. Specification 2: June 2021 Physical Altercation

The tribunal finds that the Department did not meet its burden of proof that Respondent engaged in a physical altercation with Complainant on June 28, 2021. The record is devoid of any support for the allegation that Respondent repeatedly slammed her against the wall other than Complainant's brief account comment at the 1 hour and 41 minute mark of the body-worn camera footage. This narrative is essentially repeated in the DIR completed months later. Complainant did not appear to provide further details or be cross-examined about this allegation. Without additional corroboration, I find this hearsay claim to be an entirely insufficient basis upon which to find Respondent guilty of domestic violence on this date. Accordingly, Respondent is found to be Not Guilty of the misconduct alleged in Specification 2.

c. Specification 3: Computer Misuse

Respondent pled guilty to using Department computer databases on 15 occasions between February 23, 2021 and November 20, 2021 for reasons that were unrelated to Department business.⁶ In accordance with his plea, he is found Guilty of the misconduct set forth in Specification 3.

PENALTY

In order to determine the appropriate penalty, this tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history also was examined. *See* 38 RCNY § 15-07. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

⁶ The record contains no additional information about these particular computer queries.

Respondent, who was appointed to the Department on July 2, 2001, has been found Guilty of misconduct including a physical domestic altercation and a separate alarming set of communications involving the same complainant. In a separate matter, he has been found Guilty of causing a false arrest where no crime had been committed and causing inaccurate entries in the arrest record. That misconduct occurred within the context of an on-duty enforcement action during a paid detail where he has also pled guilty to excessive force toward a female complainant precipitated by a minor store policy violation, discourtesy toward two civilians on two dates while working paid details and a host of other minor but important documentation and notification failings. He has also repeatedly violated the paid detail timing rule, which he previously pled guilty to and was penalized for in 2019.

The Department Advocate has recommended that Respondent be dismissed from the Department, arguing that either the physical altercation or the excessive force in the Duane Reade case alone would warrant the aggravated penalty of termination. The tribunal shares the view that Respondent's continued employment is untenable based on the totality of the misconduct here. It was chilling to watch Respondent's egregious abuse of discretion as he mistreated two different civilians, on two separate days. Further, adding just the presumptive penalties for each individual specification, even were the tribunal to allow some penalties to run concurrently, would surely result in a recommendation exceeding 90 penalty days – the point at which termination is generally deemed warranted.

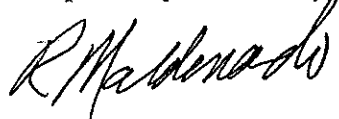
Moreover, the record is largely devoid of any mitigating factors that would lead the tribunal to recommend a penalty short of termination. Both on and off duty, Respondent showed extremely poor judgment, a disturbing lack of impulse control and a propensity, when angered, to resort to violent, unhinged behavior. His actions have made clear that he cannot, at this point

despite two decades of services to the NYPD, continue to be entrusted with the significant and often stressful responsibilities of an NYPD police officer.

Respondent's conduct cannot simply be explained away as an isolated "hard time" that understandably impacted some aspects of his work performance. The breadth of the charged misconduct is simply too far-reaching to warrant mitigation. While the tribunal has sympathy for anyone struggling through a difficult period, here Respondent consistently exhibited callousness and physical aggression toward other people, both in brief civilian encounters and with a woman known to him for years, in addition to causing an unlawful arrest due to his inaccurate representations about a force incident where he was the instigator. Moreover, he has shown complete disregard for multiple Department rules, including one he was disciplined for less than five years ago.

Members of service must conduct themselves, both on-duty and off-duty, appropriately and in a manner consistent with the Department's values and mission and demonstrate an ability to follow Department policies and procedures. Because of his sustained, consistent failure to do so during the time period encompassed by these three cases, the tribunal recommends that Respondent be Dismissed from the Department.

Respectfully submitted,



Rosemarie Maldonado
Deputy Commissioner Trials

APPROVED

AUG 02 2023

EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER TERRENCE ROONEY
TAX REGISTRY NO. 929080
DISCIPLINARY CASE NOS. 2020-22445, 2021-23895 and 2021-23062

Respondent was appointed to the Department on July 2, 2001. On his three most recent annual performance evaluations, he was rated “Exceeds Expectations” for 2018 and 2021 and “Meets Standards” for 2019. He has been awarded two medals for Excellent Police Duty.

In 2019, Respondent forfeited 20 vacation days after pleading guilty to (i) using a Department vehicle to conduct personal business during his scheduled tour on 12 occasions, (ii-iii) being absent from his assignment without permission or police necessity and failing to make required movement entries in his activity log on the same 12 occasions, and (iv) wrongfully working paid details within three (3) hours of his regularly scheduled tour on three (3) dates.

In connection with Case No. 2021-23895, Respondent was suspended without pay from August 25 to September 23, 2021. He was placed on Level 1 Discipline Monitoring from January 2019 to June 2020, and was thereafter placed on Level 2 Discipline Monitoring on September 22, 2021. Monitoring remains ongoing.

For your consideration.

Rosemarie Maldonado
Deputy Commissioner Trials